

I.R. NO. 86-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ATLANTIC CITY,

Respondent,

-and-

DOCKET NO. CO-86-113

TEAMSTERS UNION LOCAL 331,

Charging Party.

Appearances:

For the Respondent
Aron, Salsberg & Rosen, Esqs.
(Louis C. Rosen, of counsel)

For the Charging Party
Freedman & Lorry, Esqs.
(Neal Goldstein, of counsel)

INTERLOCUTORY DECISION AND ORDER

On November 8, 1985, Teamsters Union Local 331 ("Union") filed an Unfair Practice Charge with the Public Employment Relations Commission ("Commission") alleging that the City of Atlantic City, through the City Administrator, unilaterally altered the terms and conditions of employment of certain employees represented by the Union when it altered its residency requirements. Said alteration was made without any discussions or negotiations with the Union. These actions allegedly were a violation of §§ 5.4(a)(1), (3) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A.

34:13A-1 et seq. ("Act"). ^{1/}

The application for interim relief was granted on November 27, 1985 (I.R. No. 86-8) and a supplemental order was issued on December 17, 1985 (I.R. No. 86-10).

The application was amended on January 17, 1986. The Teamsters sought the reinstatement of Victoria Smith, Bonita Anselmo and Diana Santiago. However, the application was deficient and no action was taken until the application was perfected with a supplemental filing on February 13, 1986.

These three employees were suspended from employment by the City after the City modified its existing residency requirement and refused to negotiate over the modification. The history of residency requirement was laid out in I.R. No. 86-8. It is, therefore, not necessary to review that history here.

Victoria Smith has been steadily employed by the City since 1980. In September 1985 Smith married and moved from Atlantic City to her husband's home in Pleasantville. On November 11, 1985, Smith

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

received a notice of termination from the City. Her employment history is essentially equivalent to that of the employees' discussion in I.R. No. 86-8 and I.R. No. 86-10. Diana Santiago and Bonita Anselmo state, by way of affidavit, that they were hired January 1985. At the time neither was a resident of the City of Atlantic City. They both allege that they were told when they were hired that they did not have to reside in the City but both were informed in November 1985 that if they did not move to the City that they would be terminated from employment.

The City ordinance which was in place at the time these women were employed, provides at Section 4 for the 1982 City ordinance that:

...any person not otherwise exempted who was hereafter appointed to a position or employed by the city shall remain a bonafide resident of the City while employed and failure to maintain said residency shall be cause for removal or discharge from service. In the event such employee does not maintain bonafide residency, the hiring authority shall notify said employee and failure to again take a bonafide residency in the City within six months of the notification will result in the removal or discharge from service...
[Emphasis supplied]

However, both women stated they were exempted from this residency requirement and the City has not filed any affidavits or other papers which contest their allegations.

The City has not opposed the application for interim relief for these three employees. For the reasons set forth in I.R. No. 86-8, IT IS HEREBY ORDERED that Victoria Smith, Bonita Anselmo and Diana Santiago be reinstated to their positions with the City of

I.R. NO. 86-18

4.

Atlantic City. Moreover, they are to be made whole and the City is to provide back pay for the time they had been suspended.



Edmund G. Gerber
Director

DATED: February 25, 1986
Trenton, New Jersey